

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF DRINKING WATER
DECEMBER 18, 2019**

ITEM 4

SUBJECT

ADMINISTRATIVE PROCEDURE ACT PUBLIC HEARING REGARDING PROPOSED ENVIRONMENTAL LABORATORY ACCREDITATION PROGRAM (ELAP) REGULATIONS

DISCUSSION

State regulatory programs designated by the Legislature to protect public health and the environment rely on accurate and reliable environmental testing data to monitor the effectiveness of regulatory actions. Under the Environmental Laboratory Accreditation Act (Health & Saf. Code, div. 101, pt. 1, ch. 4, art. 3, §100825 et seq.), laboratories that perform environmental testing for regulatory purposes are required to be accredited by the State Water Resources Control Board (State Water Board) Environmental Laboratory Accreditation Program (ELAP). ELAP ensures that accredited laboratories can comply with an accreditation standard and demonstrate the capacity and competence to generate data of known and documented quality.

ELAP's current regulations, which were established in 1994, contain the requirements for operation of the accreditation program and the standards for determining the competency of a laboratory. These regulations are outdated and do not incorporate the fundamental elements of modernized accreditation standards. This jeopardizes the validity of the data produced by accredited laboratories and creates a lack of trust in data used by the State regulatory agencies to make decisions regarding public health and the environment.

The broad objective of the proposed regulations is to modernize the accreditation program within the authority granted by the Environmental Laboratory Accreditation Act. The proposed regulations include:

- Updates to the administrative process for operating an accreditation program.
- Modification or elimination of outdated requirements.
- Replacement of existing accreditation standards with the nationally recognized, consensus-based 2016 TNI Standard – Revision 2.1, Volume 1, Management and Technical Requirements for Laboratories Performing Environmental Analysis (2016 TNI Standard), with two exceptions.

State Water Board staff engaged in a multi-year, stakeholder-involved process to select an accreditation standard and develop the proposed regulation text. Focused stakeholder meetings were conducted from 2015 through 2019 and multiple preliminary drafts of the regulation text were released with suggested changes from the laboratory community incorporated into the proposed regulation text. Public workshops to present

the preliminary drafts and solicit comments, were held in 2017 and 2019, respectively, with locations in Redding, Sacramento, San Francisco, Fresno, Los Angeles, and San Diego.

On October 11, 2019, the State Water Board published a notice of proposed rulemaking pursuant to the requirements of the California Administrative Procedure Act (APA). Publication of the notice of proposed rulemaking in the California Regulatory Notice Register begins the mandatory 45-day public comment period when the public may submit comments, concerns, or support of the proposed regulation. All elements of the regulatory package were posted on the program webpage at:

https://www.waterboards.ca.gov/drinking_water/certlic/labs/complete_rulemaking_files.html

The standards produced by TNI are integrated documents containing language from relevant International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) standards, and therefore, are copyright protected and provided through a license agreement. The State Water Board has made the 2016 TNI Standard publicly available for viewing at the CalEPA Headquarters Office in Sacramento, each of the nine (9) Regional Water Quality Control Board Offices, and twenty-four (24) Division of Drinking Water District Offices. Interested parties may contact any of the offices to view the 2016 TNI Standard in the designated public record document review area. Additionally, The NELAC Institute has provided access to a read-only, unlicensed version of the 2016 TNI Standard for all interested parties on the [TNI website](#). To access the documents, enter the password: T6E79WS. This link will remain active until public access to the document is no longer needed for the rulemaking process. To obtain a personal copy of the 2016 TNI Standard, interested parties may contact TNI's Executive Administrator, Suzanne Rachmaninoff, at suzanne.rachmaninoff@nelac-institute.org. Discounted rates for the 2016 TNI Standard are available for a limited time.

The purpose of this hearing is to receive verbal and written comments from the public on the proposed regulations in accordance with the APA. The APA hearing will be held during a Board workshop and will include a staff presentation on the proposed regulations. The staff presentation will be followed by public comments, including presentations by those from the municipal laboratory community who are not in favor of incorporating the 2016 TNI Standards into the regulations.

While a quorum of the State Water Board may be present, the Board will not take formal action at the hearing. The State Water Board and its staff may ask clarifying questions.

Following the conclusion of the public comment period on December 20, 2019, the State Water Board will compile, review, and respond to every comment. Responses to the comments may result in modifications to the proposed regulations that may then require an additional 15-day public comment period. Any additional public comment period will be noticed. State Water Board staff expects to submit the final regulations and accompanying documents to the State Water Board for adoption at the Board's March 17, 2020 State Water Board meeting.

POLICY ISSUE

None – Hearing only, no decisions will be made.

FISCAL IMPACT

None – Hearing only, no decisions will be made.

REGIONAL BOARD IMPACT

None – Hearing only, no decisions will be made.

STAFF RECOMMENDATION

None – Hearing only, no decisions will be made.